II. Remarks

Reconsideration and re-examination of this application in view of the above amendments and the following remarks is herein respectfully requested.

Claims 2-8, and 10-32 remain pending. Claims 1 and 9 have been cancelled.

Allowable Subject Matter

Applicant respectfully acknowledges the examiner's indication that claims 4, 5, 8, 10, and 15-21 contain patentable subject matter. Accordingly, claims 4, 8, and 10 have been rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Further, claims 7 and 22-24 have been amended to depend from claim 8, thereby incorporating the allowable subject matter in claim 8.

Claim Rejections - 35 U.S.C. § 112

Claims 11-14, and 22-24 were rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Accordingly, claims 11 and 22 were amended to replace "the time delay circuit" with "the time delay switch circuit" which receives proper antecedent basis from claims 2 and 8 respectively.

Claim Rejections - 35 U.S.C. §102(b)

Claims 1, 9, and 25 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 6,075,412 to Bainvoll (Bainvoll).

Claims 1 and 9 have been cancelled.

With respect to claim 25, the examiner may have inadvertently included this rejection under both §102(b) and §103(a).

MPEP §2131 provides,

> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegaal Bros. C. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The examiner does not address the phase lock loop limitation under §102(b). Further, the examiner's statement under §103(a) that "the frequency of an FM modulator must be locked in Bainvoll's invention because the signal is a stable, modulated RF signal" and that "phase lock loops are extremely well known in the art" do not form a proper basis for rejection under 35 U.S.C. §102. Clearly, Bainvoll does not teach each and every element provided in independent claim 25. **Since each and every element of claim 25 is not taught by the reference, Bainvoll cannot anticipate the present invention under 35 U.S.C. §102 as the examiner contends.**

Claim Rejections - 35 U.S.C. §103(a)

Claims 2-3 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bainvoll in view of U.S. Patent 6,448,857 to Quintanar et al. (Quintanar).

With regard to claim 2, applicant suggests that a *prima facie* case for obviousness has not been established by the examiner. "The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness." MPEP §2142. The examiner has not provided factual support that using audio ramp up circuit of Quintanar with the configuration in Bainvoll would have been obvious at the time of the invention to a person of ordinary skill in the art. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." Ex parte, Clapp, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. & Inter. 1985).

Bainvoll may show an RF ramp up circuit and Quintanar may show an audio ramp up circuit independently. However, applicants respectfully submit that using an audio ramp up circuit and an RF ramp up circuit together is not taught or suggested in any of the references provided by the examiner. Neither does the examiner provide a line of reasoning, supported by facts, that shows the limitations discussed above would have been obvious to one of ordinary skill in the art at the time of the invention. Accordingly, applicants respectfully submit

that claim 2 is patentable over the cited art for at least the reasons provided above.

Claims 6-7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bainvoll in view of U.S. Patent 5,969,561 to McGillian (McGillian).

Claims 6 and 7 depend from claim 2 and are, therefore, patentable for at least the same reasons given above in support of claim 2.

Claims 25, and 28-30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bainvoll.

With regard to Claim 25, the examiner has provided no factual support that the signal has been stabilized in Bainvoll, much less that a phase lock loop is used to stabilize the signal. The examiner's assertions as noted above must provide factual support that all the elements of the claims are suggested by the reference. With respect to claim 28, the examiner's assertions are even more unsubstantiated. Claim 28 recites "the step of increasing gradually power of the RF input signal occurs after the step of locking onto the frequency of the RF signal." The examiner simply states that if the RF signal is stable, increasing the power must occur before locking onto the signal. However, the examiner has provided no support, factual or otherwise, that it have been obvious to increase the power of the RF input signal after the step of locking onto the frequency. Clearly, the order of these steps cannot be suggested by Bainvoll alone.

Claims 26-32 depend from claim 25 and are, therefore, patentable for at least the same reasons given above in support of claim 25.

Claims 26, 31, and 32 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bainvoll in view of Quintanar.

Claims 26, 31, and 32 depend from claim 25 and are, therefore, patentable for at least the same reasons as given above in support of claim 25.

Claim 27 was rejected under 35 U.S.C. §103(a) as being unpatentable over Bainvoll in view of U.S. Patent 6,445,732 to Beamish et al. (Beamish).

Claim 27 depends from claim 25 and are, therefore, patentable for at least the same reasons as given above in support of claim 25.

Conclusion

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is respectfully requested.

Respectfully submitted by,

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